

A meeting of the New Hampshire Water Well Board was held on August 12, 2003 at 9:30 am, in rooms 112 & 113, 6 Hazen Drive, Concord, NH, 03302.

Present were: Terrell Swain, Chairman
Rene Pelletier, Secretary
Board members: Willis "Bud" Rollins Jr., Bart Cushing, Andrew Singelakis, David Wunsch and Peter Caswell.
Staff: Rick Schofield, and Bobbi Benedict
Appeals Clerk: Michael Sclafani

Chairman Swain brought the meeting to order at 9:30 and opened the meeting by welcoming Peter Caswell to the Board and introducing members of the Board and Staff to the public in attendance.

Approval of Minutes

Mr. Schofield commented that several corrections had been identified and made to the draft Minutes of the June 5th meeting which were presented as annotated text. Upon motion by Mr. Cushing, seconded by Mr. Singelakis, the Board voted unanimously to accept the Minutes of the June 5th meeting as written.

Complaint

Stephens / EM Young Well Co. – The parties were not present. Mr. Schofield summarized the complaint for the Board.

The well was originally constructed in 1994 by EM Young Well Company for Abdallah Construction. The Stephens hired Smith Pump Company to upgrade their well pump from ½ Hp to ¾ Hp for a landscaping project they were planning. Smith Pump was unable to install the new pump because of an obstruction in the well. A video camera survey was conducted by Smith Pump, which indicated the well had 13 feet of casing, a large void existed at 14 feet, and the well was obstructed by a cobble sized rock at 17 feet. The Stephens sent the video log to DES for review and recommendation, and a complaint was filed with the Board for investigation. The review verified that the well was not sealed into bedrock.

By agreement reached between the parties, on July 10, 2003, EM Young Well Company removed the pump installed by Smith Pump Company, drilled out the obstruction located just below the bottom of the casing, installed a Jaswell seal on 40 feet of 5" steel casing, drilled out the remainder of the well, and re-installed the pump at 150 feet with new water service pipe and pump wire. Mr. Schofield was present for the remedial work at the request of the Stephen's.

The Stephen's filed a follow-up letter with the Board confirming a resolution of the complaint and requesting that the complaint remain on file for future reference. Mr. Young filed a revised well completion report for the well.

Following discussion and questions of Mr. Schofield by the membership, the Board voted unanimously, upon motion by Mr. Singelakis and second by Mr. Wuncsh, to take no further action on the complaint based on the fact it was remediated and resolved.

Public Assistance

Letter of Alfred Cann – Mr. Schofield reviewed a letter received by Alfred Cann of Brookfield, NH. Mr. Cann had a dug well installed in 2001 and had not been able to solve a recurring bacteria problem with the well. DES has been providing advice to Mr. Cann in order to resolve the problem but without success. The letter articulated his frustration with trying to find a licensed water well contractor to dig a new well. Mr. Cann had used the Board's new web site query application to contact licensed dug well contractors. Only one of the contractors he contacted said he would take a look at the property and the remainder tried to sell him a drilled well (because they only construct drilled wells) or said they wouldn't travel that far. He further explained that there were plenty of unlicensed contractors who were willing to dig a well for him.

Mr. Schofield explained that many well contractors hold multiple licenses including dug well licenses. That's why their company name comes up on the query application, however, they don't actually construct dug wells. When a consumer calls for an estimate on a dug well, the contractor tries to sell the caller a drilled well.

The membership discussed the issue.

The Chairman stated the matter needed the Board's attention.

Reporting Update – *At the June 5th meeting several contractors were called into the meeting to explain why they had not submitted well completion reports. In the majority of cases, the Board voted to require the contractors to file all past due reports which were never submitted.*

Staff reported on the well completion reports received since that meeting. In addition, staff reported that there had been no response from Mr. Scott Nash regarding the Board's June 10, 2003 letter. *Mr. Nash did not attend the June 5th meeting and the Board had requested his attendance to answer questions along with the other licensees. At that meeting the Board voted to send Mr. Nash a letter requesting him to respond with a letter to the Board within 30 days verifying that he had only constructed two wells in 1999 and provide an explanation of why he hadn't constructed any wells since that time.*

Upon motion by Mr. Cushing, seconded by Mr. Pelletier, the Board voted unanimously to schedule an administrative hearing to show cause why the water well contractor license held by Scott Nash d/b/a Eddie Nash & Sons should not be revoked for refusal to file reports as required by RSA 482-B:10.

Public Hearing

McKeage / Eddie Nash & Sons, Inc. – The Chairman opened the hearing at 10:40 am and made the opening statements. The hearing was being conducted to determine if Eddie Nash & Sons Inc., holding license # 1758, was in compliance with the Board's Order(s) of February 19, 1999 and May 25, 1999. The Order(s) required Eddie Nash & Sons, Inc., to provide the McKeage's with a properly constructed well in accordance with RSA 482-B and We 100 through We 900, and if a well could not be provided within 2 weeks, to provide the McKeage's residence with an alternative source of drinking water until such time as the well could be constructed.

All parties were in attendance.

The Chairman called Simone McKeage to the table and she was sworn in. Simone McKeage testified to the events relative to the case starting from when they bought the property from Mr. Nash to the present. (Refer to the records of the hearing for specific testimony)

Attorney Joseph Franzese introduced himself to the Board and stated he was here as a witness for the McKeages. Attorney Franzese was sworn in.

Attorney Waystack introduced himself to the Board as Counsel for Scott Nash d/b/a Eddie Nash & Sons. Attorney Waystack asked questions of Simone McKeage.

Mr. Derwood McKeage was sworn in, testified, and answered questions for the Board and Attorney Waystack.

Scott Nash was sworn in and provided testimony and answered questions from the Board, Simone McKeage, and Attorney Waystack.

Mr. Richard Schofield (staff for the Board) was sworn in and answered questions of Attorney Waystack and the Board.

Attorney Waystack made closing arguments in reference to the Memorandum of Law submitted by Scott Nash by his attorney's Waystack & King.

The Chairman asked Simone McKeage if she would like 10 days to respond to the Memorandum of Law. She said she would like 10 days to respond.

The Public Hearing was closed at 2:20 pm.

Licensing:

New Licenses – The membership reviewed the list of new license applicants with staff. Two applicants were rejected by the Chair for incomplete or insufficient information on the applications. Staff was instructed to follow-up on the applications.

Renewals/ Continuing Ed – Mr. Schofield reported on this year's renewals, which were sent out in July, and reviewed the Water Well News letter sent out with the renewals.

The Board considered a petition for extension of the time period to complete the two hour continuing education requirement from Luc Hebert of Gosselin Plumbing & Heating. Mr. Schofield explained that Mr. Hebert was one of several licensees who were in the same situation and suggested that Mark Hilbert had offered to give a seminar for these individuals, and staff could review the seminar for next year at the same time. He also suggested that the Board should extend the deadline for contact hours until August 1 annually.

Upon Motion by Mr. Cushing, seconded by Mr. Pelletier, the Board voted unanimously to grant Mr. Hebert, and others, a 90 day extension for completion of their contact hours.

Old Business.

Program Advisory Committee Update on Action Items – Staff updated the membership on progress achieved on the action items established by the advisory committee. Action items discussed were:

Issue #1. Large numbers of requests for well data from the public sector.

Action. Pursue the possibility of putting the well database on the DES One Stop Program.

Mr. Schofield reported that it looked like the One Stop Program would be moving forward to accomplish this goal and a meeting was held on July 29 to discuss details.

Issue #2. Staff resources spent on enforcement matters.

Action. The committee suggested that no staff time should be dedicated to negotiation of settlement agreements.

Mr. Schofield reported that he had discussed the matter with staff from the Legal Unit and the department suggested that settlement agreements actually save staff time by avoiding time spent in preparation for a hearing in every case. DES must conduct a hearing before an administrative fine is levied, unless a settlement agreement is reached. Also as a matter of policy, DES encourages programs to develop their own Compliance Assurance Response Policy (CARP). The water well program could choose to address the action item through its own CARP.

Issue #3. Program Tracking.

Action. Establish new task codes for time allocation.

Staff provided the membership with the new task codes.

New Business.

The membership discussed the final adopted version of House Bill 79 relative to the regulation of water treatment equipment installers.

The Board also discussed a request for exemption of We 604.04 by OE Dube & Son, Inc., to decommission two wells by installing alternating layers of washed sand and bentonite chips. Mr. Dube had asked staff to expedite the request and staff responded by polling the membership. The petition was granted.

Some members of the Board expressed their disapproval of expediting petitions for exemptions by voting outside of Board meetings. They felt that these requests should be dealt with in a public forum. Staff explained that in many cases requests for exemptions from licensees directly affect their customer and it would be doing a disservice to well owners by making them wait for up to two months for a response from the Board. A fast track approval process would be a benefit to the public.

Upon motion by Mr. Pelletier, seconded by Mr. Rollins, the Board voted unanimously that future petitions for waiver or exemption of Water Well Board rules shall be directed to the Chairman of the Board. DES staff will not respond.

The membership commented on the feedback received from attendees of the private well initiative Realtor / Banker seminars conducted by DES this winter and spring.

The meeting was adjourned.

Rene Pelletier
Water Well Board Secretary